



IN THE DISTRICT COURT IN AND FOR TULSA COUNTY
STATE OF OKLAHOMA

THE STATE OF OKLAHOMA,

Plaintiff,

vs.

KEVIN HORNE

Defendant.

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CM-2023-1374

Judge Wilson

**DISTRICT COURT
FILED**

OCT 02 2023

DON NEWBERRY, Court Clerk
STATE OF OKLA. TULSA COUNTY

MOTION FOR DISCOVERY

COMES NOW, the Defendant, Kevin Lane Horne, by and through undersigned counsel, and moves this Court to require the State of Oklahoma or any of its agents, or which through due diligence would become known to the State of Oklahoma, to disclose and produce for copying, all of the following information:

1. Pursuant to Oklahoma Criminal Discovery Code, Okla. Stat. Title 22 §§2001, 2002 the Defendant requests:

- a. The names and addresses of any and all witnesses the State intends to call at trial along with their written or recorded statements or significant summaries of their oral statements;
- b. Law enforcement reports made in connection with this case;
- c. Any and all written or recorded statements made by the Defendant and the substance of any oral statement the Defendant made;
- d. The reports or statements made by any experts in connection with this case including, but not limited to, physical or mental examinations and scientific tests or experiments or comparisons;

- e. Any books, papers, documents, photographs, or tangible objects, buildings or places, which were obtained from the Defendant.
- 2. Any records of any prior criminal conviction of the accused, including OSBI, FBI, NCIC, rap sheets/record checks, and any other records of any other law enforcement agency known by or in the possession of the State. *Allen v. District Court of Washington County*, 803 P.2d 1164 (Okl. Cr. 1990);
- 3. Any and all prior criminal convictions of persons the State of Oklahoma, as Plaintiff, intends to call as witnesses in the trial of the above-styled and numbered case. *Stafford v. District Court of Oklahoma County*, 595 P.2d 797 (Okl. Cr. 1979);
- 4. All agreements between the State of Oklahoma and any of its witnesses reflecting that the said witness has or will obtain special or lenient treatment in pending or potential criminal cases in exchange for testimony in this case and any and all consideration or promises of consideration given to any witness by the State or its attorney, including but not limited to immunity, witness fees, assistance to or favorable treatment in respect to any criminal action or anything else which could arguably create an interest or bias in a witness in favor of the State against the accused. *Binz v. State*, 675 P.2d 448 (Okl. Cr. 1984); *Napue v. Illinois*, 360 U.S. 269 (1959);
- 5. The name, social security number, address, telephone number, NCIC, OSBI, FBI rap sheet/records check of any confidential informant(s) used by law enforcement agents or police in the investigation of or as a witness to the alleged crime which has been charged against the Defendant. *Allen v. District Court of Washington County*, 803 P.2d 1164 (Okl. Cr. 1990);

6. Copies of any and all sworn statements obtained from purported witnesses to the alleged crime that has been charged against the Defendant. 22 O.S. § 749;
7. Any oral, written, or recorded statements made by the accused, including signed confessions. *Watts v. State*, 47 P.2d 981 (Okl. Cr. 1971);
8. Endorsement of names and addresses of all witnesses, together with their relevant oral, written, or recorded statements or summaries of the same. *Allen v. District Court of Washington County*, 803 P.2d 1164 (Okl. Cr. 1990);
9. All signed or oral statements by witnesses who have knowledge of the facts of the case. *Brady v. Maryland*, 373 U.S. 83, 83 S.Ct. 1194 (1963); *Giles v. Maryland*, 386 U.S. 66, 87 S.Ct. 793 (1967);
10. An opportunity to inspect and obtain copies of all prosecution exhibits that are to be introduced at trial, including but not limited to photographs and confessions. *Doakes v. District Court of Oklahoma County*, 447 P.2d 461 (Okl. Cr. 1968); *Layman v. State*, 355 P.2d 444 (Okl. Cr. 1960);
11. All exculpatory evidence in the form of inconsistent statements made by the State's witnesses, including but not limited to contradictory or inconsistent statements made by the witnesses, police officers, and the Defendant. *United States v. Bagley*, 473 U.S. 667, 105 S.Ct. 3375 (1985);
12. Notice of other crimes, testifying witnesses, and evidence admissible against the Defendant under 12 O.S. § 2404(B); *Burks v. State*, 594 P.2d 771 (Okl. Cr. 1979);
13. The names, addresses, and telephone numbers of all persons interviewed by the District Attorney, Assistant District Attorney, Investigating Detective, Police Officer(s), or others

- acting under the supervision and control of the Plaintiff or for its benefit, in connection with this case of the Defendant. *Brady v. Maryland*, 373 U.S. 83, 83 S.Ct. 1194 (1963);
14. An opportunity to inspect and obtain copies of any audio or video recorded statements or conversations between the Defendant and any law enforcement agents, police, confidential informant, or any person. *Allen v. District Court of Washington County*, 803 P.2d 1164 (Okl. Cr. 1990);
 15. An opportunity to inspect, review, and/or copy of all evidentiary material and real evidence including copies of fingerprints, instruments, clothing, or other paraphernalia relating to the charge filed against this Defendant. *Lambert v. State*, 471 P.2d 935 (Okl. Cr. 1970); *Layman v. State*, 355 P.2d 444 (Okl. Cr. 1960);
 16. An opportunity to inspect and obtain copies of any and all photographs made at or near the scene of the alleged crime by a photographer or police officer, highway patrolman, district or assistant district attorney, or any other person acting under the supervision and control of the State and for its benefits. *Layman v. State*, 355 P.2d 444 (Okl. Cr. 1960);
 17. An opportunity to inspect and obtain copies of all records, reports, and photographs reflecting the manner and the mode in which the State conducted any and all pre-trial identification proceedings. This request includes, but is not limited to any "live" line-ups, any photographic line-ups, and any other proceedings or investigation during which a State's witness was given the opportunity to view the accused or a photograph of the accused for the purpose or with the result of making an identification of a suspect. *United States v. Wade*, 388 U.S. 218, 87 S.Ct. 1926 (1967); *Thompson v. State*, 438 P.2d 287 (Okl. Cr. 1968);

18. Copies of any arrest warrants and affidavits for arrest warrants obtained or issued in this case regarding the accused, other suspects or any other person involved in this matter. Also produce any evidence or statements obtained from those arrests that the State intends or potentially intends to use against the accused;
19. Copies of any search warrants and affidavits for search warrants obtained or issued in this case, as well as any search waiver, law enforcement reports of searches and any evidence obtained from those searches;
20. An opportunity to inspect, review, and obtain samples and copies of records, reports, and/or other evidentiary material which is the basis for an opinion of a State's expert witness. *Stafford v. District Court of Oklahoma County*, 595 P.2d 797 (Okl. Cr. 1979);
21. Copies of any and all reports or statements made by any experts and/or technical investigators, including copies of results from scientific tests, experiments, or comparison of fingerprints, instruments, clothing, bodily fluid, weapons, projectiles, or any other items relating to the charge filed against the accused. This includes but is not limited to, copies of their notes, materials relied upon in coming to their conclusions, motions provided by the State, other reports relied upon by those experts and any and all relationship or connection those experts may have with the investigation of this alleged crime. *Lambert v. State*, 471 P.2d 935 (Okl. Cr. 1970); *Stafford v. State*, 595 P.2d 747 (Okl. Cr. 1979); *McCarty v. State*, 765 P.2d 1215 (Okl. Cr. 1988), *Miller v. State*, 809 P.2d 1317 (Okl. Cr. 1991); 22 O.S. § 751; *White v. State*, 1998 OK CR 69, 11-15;

22. Disclose and produce any and all previous complaints by the victim against the accused or any other persons to any law enforcement agency. Also disclose the alleged victim's reputation for violence, if known to any representative of the State;
23. Disclose any and all information of any medical treatment, first aid, or other medical assistance given to the victim, including but not limited to treatment by any doctor. Disclose the identity of the doctor, medical personnel, support staff, and emergency technicians involved in the treatment or evaluation of the victim by the doctor, hospital, emergency staff, and other medical personnel;
24. Disclose complete, unedited, and un-redacted copies of any and all reports, notes, examinations, and evaluations done by the medical examiner's office of the victim, including but not limited to any photographs taken or descriptions made of the victim's wound or wounds and the person who made such reports or photographs, the time and place taken and all persons involved in such examination and evaluation of the victim;
25. All information or material in possession or control of the prosecutor, or that could be acquired by due diligence by the prosecutor that would tend to negotiate the guilt of the accused, or which would tend to reduce the punishment of the accused should the accused be convicted. *Brady v. Maryland*, 373 U.S. 83, 83 S.Ct. 1194 (1963);
26. A list of names and addresses of anyone who might have favorable testimony on behalf of the Defendant. *Brady v. Maryland*, 373 U.S. 83, 83 S.Ct. 1194 (1963);
27. All exculpatory evidence in the form of inconsistent statements made by the State's witnesses, including but not limited to contradictory or inconsistent statements made by witnesses, police officers, and the Defendant or other suspects, whether contradictory to

prior statements made by that person or contradictory or inconsistent with statements made by others. *Brady v. Maryland*, 373 U.S. 83, 83 S.Ct. 1194 (1963);

28. Identify and produce all evidence tending to impeach the credibility of each potential witness. Identify and produce each statement made by any person to the government concerning the credibility of any potential witness. *Brady v. Maryland*, 373 U.S. 83, 83 S.Ct. 1194 (1963);

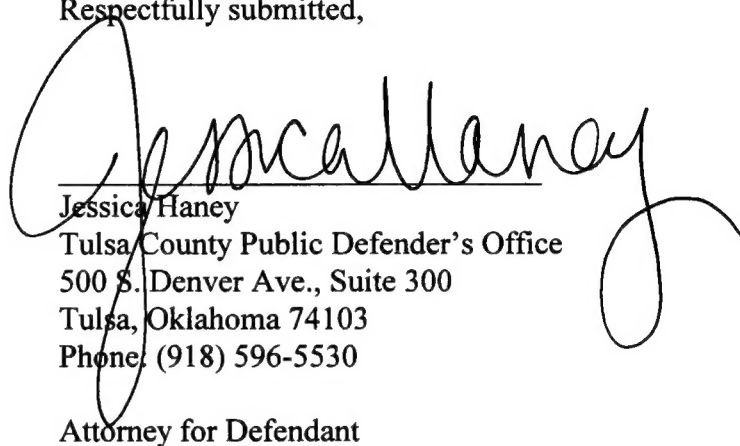
29. Identify and produce all REJECTED investigated leads or other people who have been investigated and eliminated as suspects;

It is the duty of the government to disclose to the accused all evidence favorable to the accused, whether such information relates to guilt, mitigation of punishment, or the credibility of witnesses. *Brady v. Maryland*, 373 U.S. 83, 83 S.Ct. 1194 (1963). The Government's duty to disclose extends to all information known by any government agent, and is not limited to information within the knowledge of the particular prosecutor assigned to the case. *Giglio v. United States*, 405 U.S. 150, 92 S.Ct. 763 (1972). Exculpatory material must be disclosed even when not specifically requested. *United States v. Agurs*, 427 U.S. 97, 96 S.Ct. 2392 (1976).

That such obligation to disclose such information be extended to material and information in possession or control of members of the prosecutor's staff and to those law enforcement agencies who regularly report to the prosecutor staff and to those law enforcement agencies who regularly report to the prosecutor or, who have reported in reference to this particular case, and that this duty be continued until the close of this trial. 22 O.S. §§ 2001, 2002; *Allen v. District Court of Washington County*, 803 P.2d 1164 (Okla. Cr. 1990).

WHEREFORE the Defendant prays that this Court grant this Motion for Discovery and further Order the State to produce the requested discovery or otherwise respond to this Motion.

Respectfully submitted,

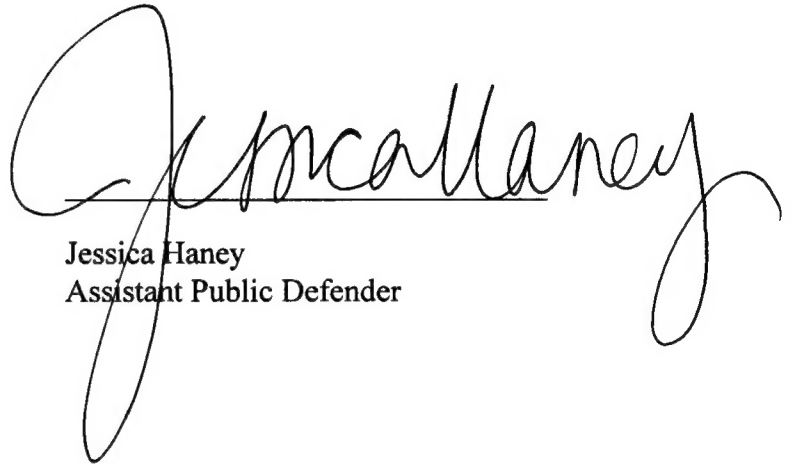


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Tulsa County Public Defender's Office
500 S. Denver Ave., Suite 300
Tulsa, Oklahoma 74103
Phone: (918) 596-5530
Attorney for Defendant

CERTIFICATE OF DELIVERY

This is to certify that on the filing date, a true and correct copy of the above and foregoing Motion for Discovery was delivered to:

Tulsa County District Attorney's Office
500 S. Denver Ave, Suite 900
Tulsa County Courthouse
Tulsa, OK 74103

A handwritten signature in black ink, appearing to read 'J McCallaney', is written over a horizontal line. The signature is fluid and cursive, with a large loop at the end.

Jessica Haney
Assistant Public Defender